

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1144 - HB 1430

March 29, 2021

SUMMARY OF ORIGINAL BILL: Increases, from \$225 to \$250, the maximum fee imposed by the court to a defendant convicted of a domestic assault violence.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005557): Deletes all language after the enacting clause. Expands the definition of serious bodily injury for the purposes of any offense where the relationship between the defendant and the victim is such that the victim is a domestic abuse victim.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$14,663,400 Incarceration*

Decrease Local Expenditures – \$675,600/FY21-22 and Subsequent Years

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 39-13-101, a person commits a Class A misdemeanor assault who:
 - Intentionally, knowingly, or recklessly causes bodily injury to another; or
 - Intentionally or knowingly causes another to reasonably fear imminent bodily injury.
- Pursuant to Tenn. Code Ann. § 39-13-102, a person commits a Class D felony aggravated assault who recklessly commits assault by intentionally, knowingly or recklessly causing bodily injury to another and the assault:
 - Results in serious bodily injury to another;
 - Result in death of another; or
 - Involved the use or display of a deadly weapon.
- Pursuant to Tenn. Code Ann. § 39-11-106(a)(36), serious bodily injury means bodily injury that involves:
 - A substantial risk of death;
 - Protracted unconsciousness;
 - Extreme physical pain;
 - Protracted or obvious disfigurement;

- Protracted loss or substantial impairment of a function of a bodily member, organ or mental facility; or
 - A broken bone of a child who is 12 years of age or less.
- The proposed legislation expands the definition of serious bodily injury to include the following for the purposes of any offense where the relationship between the defendant and the victim is such that the victim is a domestic abuse victim:
 - A broken bone, regardless of the victim's age;
 - Damage to the palette or other sensory function, including, but not limited to, the ears, mouth, eyes, or nose, that requires medical repair or construction;
 - Tearing of ligaments or muscle tissue;
 - Dislocation of joints;
 - Abrasions to the neck, face, or chest; or
 - Substantial bruising to body.
- Based on data obtained through the Tennessee Bureau of Investigation (TBI) Tennessee Incident Based Reporting System (TIBRS), over the last three years, there was an average of 25,871 arrests for simple assault of a domestic violence victim.
- Based on information in the FY19-20 Annual Report of the Tennessee Judiciary, approximately 47.7 percent of criminal court dispositions statewide resulted in a conviction.
- This analysis assumes 47.7 percent, or 12,340 ($25,871 \times 47.7\%$), of arrests result in a conviction and 5 percent, or 617 ($12,340 \times 5\%$), of convictions will result in a Class D felony admission of aggravated assault under the proposed legislation.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 51 ($617 \times 8.3\%$) additional admissions for a total of 668 ($617 + 51$).
- According to the Department of Correction (DOC), 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by the proposed legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as the proposed legislation ($668 \text{ offenders} \times 30.79\% = 206 \text{ offenders}$).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class D felony is 1.08 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 462 ($668 - 206$) offenders will be admitted every year serving 394.47 days (1.08×365.25). The annualized increase in state incarceration expenditures is estimated to be \$14,663,444 ($\$80.46 \times 394.47 \times 462$).
- This analysis assumes individuals convicted of a Class A misdemeanor offense assault against a first responder are spending an average of 15 days in local jail.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.

- The proposed legislation will result in a recurring decrease in local incarceration expenditures estimated to be \$675,615 (\$73 x 617 offenders x 15 days) in FY21-22 and subsequent years.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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